

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

JAMES MICHAEL MCLEOD,

Plaintiff,

v.

F/V ICY MIST, LLC, *et al.*

Defendant.

Case No. 3:23-cv-00001-JMK

ORDER DIRECTING SERVICE & RESPONSE

On January 3, 2023, James Michael McLeod, a self-represented litigant (“Plaintiff”) filed a Seaman’s Complaint and paid the filing fee. Plaintiff is entitled to service of process by the U.S. Marshal Service, pursuant to 28 U.S.C. § 1916.

IT IS THEREFORE ORDERED:

1. As a Seaman, Plaintiff is not required at this time to pay the costs incurred by the U.S. Marshal Service in serving the summons and complaint on defendants, pursuant to 28 U.S.C. § 1916. The U.S. Marshal Service fee may be taxed as costs in this case, pursuant to 28 U.S.C. §§ 1920(1) and 1921(a)(1)(A) and included in the judgment.
2. Plaintiff shall proceed with the steps outlined in this order to ensure that service of process on each of the defendants is completed no later than

ninety (90) days from the date of this order.¹ This means that no later than 90 days from the date of this order, Plaintiff must complete initial service of the Complaint and Summons on the defendants. All service shall be made in a manner authorized by Rule 4 of the Federal Rules of Civil Procedure.

3. The Clerk of Court shall provide four summons forms to Plaintiff, as well as four U.S. Marshals Service Process Receipt and Return forms (USM-285).
4. To complete each summons form properly, Plaintiff must include all of the following on the form:
 - a. At the top each form, above “SUMMONS IN A CIVIL ACTION,” enter the information as found on the first page of this order:
 - i. the name of the Court (at the very top middle of the page, after “United States District Court for the District of Alaska”); and
 - ii. the parties’ complete full names (above Plaintiff(s) v. Defendant(s), respectively); and
 - iii. the case number, after “Civil Action No.”
 - b. As to who the summons is “To,” Plaintiff should complete one summons for each defendant. Plaintiff should write the full name and mailing address for each defendant, if known.

¹ See Fed. R. Civ. P. 4(m).

- c. After the paragraph ending, “The answer or motion must be served on the plaintiff or plaintiff’s attorney, whose name and address are” on the summons form, enter the name and the address of the address at which any answer or motion should be served on Plaintiff. If Plaintiff retains an attorney, that attorney’s name and address information should be entered here. If Plaintiff continues to be self-represented, then his mailing address should be entered.
- d. To complete each USM-285 form properly, Plaintiff must include all of the following:
 - i. the parties’ complete full names (below Plaintiff(s) v. Defendant(s), respectively);
 - ii. the case number, after “Court Case Number”;
 - iii. the defendant’s full name and address, in the “Serve At” section;
 - iv. his address, in the Send Notice of Service Copy section;
 - v. number of process to be served (will be 1 per form) and number of parties of parties in this case (total of defendants named);
 - vi. his signature as the plaintiff, along with his phone number, and the date.
- e. After Plaintiff completes the required forms, he should mail (1) each of the completed summons forms; (2) each of the U.S. Marshal’s

Service of Process Receipt and Return (USM-285) forms; (3) four copies of the complaint to the Court at the following address; and (4) four copies of this order to:

U.S. District Court
222 West 7th Avenue, #4
Anchorage, Alaska 99513

If the summons forms have been completed in the proper form, they will then be issued by the Clerk of Court for service.

- f. After issuing the summons, the Clerk of Court must send the completed summons forms, completed USM-285 forms, the required copies of the Complaint, and copies of this Order to:

United States Marshal Service
222 West 7th Avenue, Box 28
Anchorage, Alaska 99513

The U.S. Marshal shall then take all reasonable steps to promptly effect service in this case.²

5. After each of the defendants have been served, the U.S. Marshals must provide the Court with proof of service by submitting an affidavit.³ The

² Fed. R. Civ. P. 4(c)(3) (providing “the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court. The court must so order if the plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. § 1915[.]”).

³ Fed. R. Civ. P. Rule 4(l)(1).

requirements of service are not completed until the proof of service has been submitted to the Court within ninety (90) days of this Order.

6. At all times, Plaintiff shall keep the Court informed of any change of address. Such notice shall be titled "Notice of Change of Address."⁴ The notice shall contain **only** information about the change of address, and its effective date. The notice shall not include requests for any other relief. Failure to file the notice may result in the dismissal of the action for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure.
7. After service of the Complaint, all future papers sent to the Court must be identified with the name of the Court, the case number, the name of the Plaintiff, the name of the first defendant, and the title of the document, as illustrated on the first page of this order.⁵
8. Plaintiff shall serve a copy of all further filings submitted to the Court upon each of the defendant or, if an appearance has been entered by counsel for a defendant, on that defendant's attorney(s).⁶ Plaintiff shall include, with any original paper filed with the Clerk of Court, a certificate stating the date

⁴ See Local Civil Rule 11.1(b) (requiring a notice of change of address to be filed "[s]elf-represented parties must keep the court and other parties advised of the party's current address and telephone number."). A Notice of Change of Address form, PS23, may be obtained from the Clerk of Court, if needed.

⁵ See Fed. R. Civ. P. 10(a) ("The title of the complaint must name all the parties; the title of other pleadings, after naming the first party on each side, may refer generally to other parties.").

⁶ See Fed. R. Civ. P. 5.

that an exact copy of the document was mailed to each of the defendant or defendant's counsel. A Certificate of Service may be written in the following form at the end of the document:

I hereby certify that a copy of the above (name of document) was mailed, first class, U.S. mail, to (name of opposing party or counsel) at (address) on (date).

(Signature)

Any paper received by a District Court Judge or Magistrate Judge which does not include a Certificate of Service indicating that each defendant was served with a copy of that document will be disregarded by the Court.

9. Each litigant is responsible for keeping a copy of each document filed with the Court. When a litigant mails a document to the Court, the litigant will receive a Notice of Electronic Filing ("NEF") from the Court that will indicate when that document was filed on the docket and the docket number of the document. Copies of documents that have been filed with the Court may be obtained from the Clerk's Office for \$0.50 per page. In the event of special circumstances or serious financial need, a party may file a motion asking for the cost of copies to be waived or reduced.
10. No party shall have any *ex parte* communication with a District Court Judge or Magistrate Judge of this Court about the merits of this action. This means that parties cannot communicate with any judge without the presence and/or knowledge and consent of the other parties. For example, Mr. McLeod shall not write letters to, or call, a judge directly. Any request for action by the

Court during these proceedings must be filed with the Clerk of Court as a motion.

11. A motion should contain the information identified in the caption of this Order and should be titled "Motion for (add the relief requested)." In a motion, a party should state specifically and concisely what he or she wants, so that the Court understands what the party is requesting. This Court's Local Civil Rule 7.1(b) requires that each motion be filed with a proposed order that the Court can issue, if the motion is granted. The proposed order helps to clarify what the moving party is asking the Court to do.
12. All documents filed with the Clerk of Court must contain an original signature, and must be mailed to the Court at the following address:

U.S. District Court
222 West 7th Avenue, #4
Anchorage, Alaska 99513

13. The Clerk of Court is directed to send Plaintiff: (1) a copy of this order, (2) four AO 440 summons forms, (3) four Form USM-285, (4) motion form PS12, and (5) a copy of the Court's *pro se* handbook, "Representing Yourself in Alaska's Federal Court."

DATED this 10th day of January, 2023, at Anchorage, Alaska.

/s/ Joshua M. Kindred
JOSHUA M. KINDRED
UNITED STATES DISTRICT JUDGE